

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

\*\*\*\*\*

**In the Matter of the COMPLAINT OF R & P \*  
FISHING CORP. ORATION, PETITIONER, \*  
AS OWNER OF THE 71' 4' 1977 CRUSADER \*  
FISHING VESSEL F/V COSTA & CORVO, \*  
OFFICAL VESSEL NUMBER: 587772, \*  
FOR EXONERATION FROM OR \*  
LIMITATION OF LIABILITY \***

**Civ. Act. No.: 09cv 10756**

\*\*\*\*\*

**CLAIM OF MARIA MESQUITA PERSONAL REPRESENTATIVE OF THE ESTATE  
OF ANTONIO S. MESQUITA**

Now comes the Claimant, Maria Mesquita, Personal Representative of the Estate of Antonio S. Mesquita, and states the following:

This Claim is being made under protest and without prejudice to the Claimant's contention that Petitioner's Limitation and Exoneration Petition is improper because this court lacks jurisdiction since Petitioner failed to comply with the requirements of the Supplemental Rules for Admiralty and Maritime Claims of the Federal Rules of Civil Procedure, Local Rules of Civil Procedure for the United States District Court District of Massachusetts and that the cause of the loss of the F/V COSTA & CORVO was within the privity and knowledge of the Petitioner, its agents and/or employees. Based on the foregoing, said Petition for Exoneration from and/or Limitation of Liability should be dismissed and the temporary restraining order should be lifted so Claimant can proceed with a civil suit for damages, Mesquita v. R & P Fishing Corp., 09-cv-10102 JLT.

### **General Factual Allegations**

1. The Plaintiff, Maria Mesquita, is the widow of Antonio S. Mesquita. Plaintiff Mesquita is a resident of New Bedford, Bristol County, Commonwealth of Massachusetts and brings this action as a personal representative of the Estate of Antonio S. Mesquita.
2. Sandra Silveirinha is the daughter of Antonio S. Mesquita and a resident of New Bedford, Bristol County, Commonwealth of Massachusetts.
3. Joao Silveirinha is the son of Antonio S. Mesquita and a resident of New Bedford, Bristol County, Commonwealth of Massachusetts.
4. P. Silveirinha is the granddaughter of Antonio S. Mesquita and a resident of New Bedford, Bristol County, Commonwealth of Massachusetts.
5. The Plaintiff, Maria Mesquita, as personal representatives of the Estate of Antonio S. Mesquita brings this lawsuit on behalf and for the benefit of, the Estate of Antonio S. Mesquita, Maria Mesquita, individually, Sandra Silveirinha, Joao Silveirinha and P. Silveirinha to recover damages resulting from the injury to and death of the decedent Antonio S. Mesquita.
6. The Defendant, R & P Fishing Corp. is a Corporation duly organized under the laws of the Commonwealth of Massachusetts.
7. On November 13, 2008 was doing business within the Commonwealth of Massachusetts.
8. On or about November 13, 2008, the Decedent, Antonio S. Mesquita was employed by the Defendant, R & P Fishing Corp.
9. On or about November 13, 2008, the Decedent, Antonio S. Mesquita was employed by the Defendant, R & P Fishing Corp. as a seaman, and a member of the crew of the F/V COSTA & CORVO.

10. On or about November 13, 2008, R & P Fishing Corp. owned the F/V COSTA & CORVO.
11. The Defendant, R & P Fishing Corp. chartered the F/V COSTA & CORVO from some other person or entity such that on or about November 13, 2008, the Defendant, R & P Fishing Corp. was the owner pro hac vice of the F/V COSTA & CORVO.
12. On or about November 13, 2008, R & P Fishing Corp. operated the F/V COSTA & CORVO.
13. On or about November 13, 2008, R & P Fishing Corp. or the Defendant's agents, servants, and/or employees controlled the F/V COSTA & CORVO.
14. In the early November 2008, the F/V COSTA & CORVO departed New Bedford on a fishing voyage in a dangerous and unseaworthy condition.
15. In the early November 2008, the Petitioner knew or should have known of the negligent, dangerous and unseaworthy condition of the F/V COSTA & CORVO. Said negligence, unseaworthiness and dangerous conditions were within the privity and knowledge of the vessel's owners and operators and existed at the inception of the voyage.
16. Thereafter, on or about November 13, 2008, the F/V COSTA & CORVO while in navigable waters in a dangerous and unseaworthy condition and not properly equipped, supplied, stable and/or fit for use as a fishing vessel, the F/V COSTA & CORVO, sank.
17. On or about November 13, 2008, while in the in the performance of his duties in the service of the COSTA & CORVO, Antonio S. Mesquita sustained personal injuries resulting in pre-death conscious pain and suffering.
18. On or about November 13, 2008, while in the performance of his duties in the service of the F/ V COSTA & CORVO, Antonio S. Mesquita drowned.

19. Prior to and at the time he sustained the above-mentioned personal injuries and death, Antonio S. Mesquita, was exercising due care

**Jurisdiction**

20. This claim is made pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1332. The Claimant seeks relief under the Jones Act, 46 U.S.C., §30104 et. seq. (formerly §688 et. seq.) and General Maritime Law.

**COUNT I**  
**JONES ACT NEGLIGENCE**  
**Claim of the Estate of Antonio S. Mesquita for Conscious Pain and Suffering**

21. The Plaintiff, Maria Mesquita, reiterates the allegations set forth in paragraph 1 through 20 above.

22. The personal injuries and conscious pain and suffering sustained by Antonio S. Mesquita prior to death, were not caused by any fault on his part but were caused by the negligence of the Defendant, its agents, servants and/or employees.

23. As a result of said injuries, Antonio S. Mesquita suffered pre-death conscious pain and suffering.

24. This cause of action is brought pursuant to the Jones Act.

WHEREFORE, the Plaintiff, Maria Mesquita, on Behalf of the Estate of Antonio S. Mesquita, demands judgment against R & P Fishing Corp., for pre-death conscious pain and suffering in an amount to be determined by a jury together with interest and costs.

**COUNT II**  
**GENERAL MARITIME LAW - UNSEAWORTHINESS**  
**Claim of the Estate of Antonio S. Mesquita for Conscious Pain and Suffering**

25. The Plaintiff, Maria Mesquita, reiterates the allegations set forth in paragraphs 1 through 20 above.

26. The personal injuries and conscious pain and suffering sustained by Antonio S. Mesquita prior to death were due to no fault of his, but were caused by the unseaworthiness of the F/V COSTA & CORVO.

27. As a result of said injuries, Antonio S. Mesquita suffered pre-death conscious pain and suffering.

28. This cause of action is brought pursuant to the General Maritime Law for Unseaworthiness.

WHEREFORE, the Plaintiff, Maria Mesquita, on behalf of the Estate of Antonio S. Mesquita, demands judgment against R & P Fishing Corp., for pre-death conscious pain and suffering in an amount to be determined by a jury together with interest and costs.

**COUNT III**  
**JONES ACT NEGLIGENCE**  
**Claim of Maria Mesquita for Loss of Support & Services**

29. The Plaintiff, Maria Mesquita, reiterates the allegations set forth in paragraphs 1 through 20 above.

30. Maria Mesquita is the widow of Antonio S. Mesquita from whom she received support and services.

31. The death of Antonio S. Mesquita, was not caused by any fault on his part but was caused by the negligence of the Defendant, its agents, servants and/or employees.

32. As a result of the death of Antonio S. Mesquita, Maria Mesquita has lost the services and support of Antonio S. Mesquita, and has sustained other pecuniary loss as will be shown at trial.

33. This cause of action is brought pursuant to the Jones Act.

WHEREFORE, the Plaintiff, Maria Mesquita, on behalf of herself, individually, demands judgment against the Defendant, R & P Fishing Corp., for loss of support and services in an amount to be determined by a jury together with interest and costs.

**COUNT IV**  
**GENERAL MARITIME LAW - UNSEAWORTHINESS**  
**Maria Mesquita for Loss of Support & Services**

34. The Plaintiff, Maria Mesquita, reiterates the allegations set forth in paragraphs 1 through 20 above.

35. Maria Mesquita is the widow of Antonio S. Mesquita from whom she received support and services.

36. The death of Antonio S. Mesquita, was not caused by any fault on his part but was caused by the unseaworthiness of the F/V COSTA & CORVO.

37. As a result of the death of Antonio S. Mesquita, Maria Mesquita has lost the services and support of Antonio S. Mesquita, and has sustained other pecuniary loss as will be shown at trial.

38. This cause of action is brought pursuant to the General Maritime Law for Unseaworthiness.

WHEREFORE, the Plaintiff, Maria Mesquita, on behalf of herself, individually demands judgment against the Defendant, R & P Fishing Corp., for loss of support and services in an amount to be determined by a jury together with interest and costs.

**COUNT V**  
**JONES ACT NEGLIGENCE**  
**Claim of Sandra Silveirinha for Loss of Nurture and Guidance**

39. The Plaintiff, Maria Mesquita, reiterates the allegations set forth in paragraphs 1 through 20 above.

40. Sandra Silveirinha is the daughter of Antonio S. Mesquita from whom she received nurture and guidance.

41. The death of Antonio S. Mesquita, was not caused by any fault on his part but was caused by the negligence of the Defendant, its agents, servants and/or employees.

42. As a result of the death of Antonio S. Mesquita, Sandra Silveirinha has lost nurture and guidance, and has sustained other pecuniary loss as will be shown at trial.

43. This cause of action is brought pursuant to the Jones Act.

WHEREFORE, the Plaintiff, Maria Mesquita, on behalf of Sandra Silveirinha , demands judgment against the Defendant, R & P Fishing Corp., for loss of nurture and guidance in an amount to be determined by a jury together with interest and costs.

#### **COUNT VI**

#### **GENERAL MARITIME LAW - UNSEAWORTHINESS Claim of Sandra Silveirinha for Loss of Nurture and Guidance**

44. The Plaintiff, Maria Mesquita, reiterates the allegations set forth in paragraphs 1 through 20 above.

45. Sandra Silveirinha is the daughter of Antonio S. Mesquita from whom she received nurture and guidance.

46. The death of Antonio S. Mesquita, was not caused by any fault on his part but was caused by the unseaworthiness of the F/V COSTA & CORVO.

47. As a result of the death of Antonio S. Mesquita, Sandra Silveirinha has lost nurture and guidance and has sustained other pecuniary loss as will be shown at trial.

48. This cause of action is brought pursuant to the General Maritime Law for Unseaworthiness.

WHEREFORE, the Plaintiff, Maria Mesquita, on behalf of Sandra Silveirinha, demands judgment against the Defendant, R & P Fishing Corp., for loss of nurture and guidance in an amount to be determined by a jury together with interest and costs.

**COUNT VII**  
**JONES ACT NEGLIGENCE**  
**Claim of Joao Silveirinha for Loss of Support and Loss of Nurture and Guidance**

49. The Plaintiff, Maria Mesquita, reiterates the allegations set forth in paragraphs 1 through 20 above.

50. Joao Silveirinha is the son of Antonio S. Mesquita from whom he received support, nurture and guidance.

51. The death of Antonio S. Mesquita, was not caused by any fault on his part but was caused by the negligence of the Defendant, its agents, servants and/or employees.

52. As a result of the death of Antonio S. Mesquita, Joao Silveirinha has lost support, nurture and guidance, and has sustained other pecuniary loss as will be shown at trial.

53. This cause of action is brought pursuant to the Jones Act.

WHEREFORE, the Plaintiff, Maria Mesquita, on behalf of Joao Silveirinha, demands judgment against the Defendant, R & P Fishing Corp., for loss of support and loss of nurture and guidance in an amount to be determined by a jury together with interest and costs.

**COUNT VIII**  
**GENERAL MARITIME LAW - UNSEAWORTHINESS**  
**Claim of Joao Silveirinha for Loss of Support and Loss of Nurture and Guidance**



54. The Plaintiff, Maria Mesquita, reiterates the allegations set forth in paragraphs 1 through 20 above.

55. Joao Silveirinha was the son of Antonio S. Mesquita from whom he received support, nurture and guidance.

56. The death of Antonio S. Mesquita, was not caused by any fault on his part but was caused by the unseaworthiness of the F/V COSTA & CORVO.

57. As a result of the death of Antonio S. Mesquita, Joao Silveirinha has lost support, nurture and guidance of Antonio S. Mesquita, and has sustained other pecuniary loss as will be shown at trial.

58. This cause of action is brought pursuant to the General Maritime Law for Unseaworthiness.

WHEREFORE, the Plaintiff, Maria Mesquita, on behalf of Joao Silveirinha, demands judgment against the Defendant, R & P Fishing Corp., for loss of support and loss of nurture and guidance in an amount to be determined by a jury together with interest and costs.

**COUNT IX**  
**JONES ACT NEGLIGENCE**  
**Claim of P. Silveirinha for Loss of Support and Loss of Nurture and Guidance**

59. The Plaintiff, Maria Mesquita, reiterates the allegations set forth in paragraphs 1 through 20 above.

60. P. Silveirinha was the granddaughter of Antonio S. Mesquita from whom she received support, nurture and guidance.

61. The death of Antonio S. Mesquita, was not caused by any fault on his part but was caused by the negligence of the Defendant, its agents, servants and/or employees.

62. As a result of the death of Antonio S. Mesquita, P. Silveirinha has lost support and nurture and guidance, and has sustained other pecuniary loss as will be shown at trial.

63. This cause of action is brought pursuant to the Jones Act.

WHEREFORE, the Plaintiff, Maria Mesquita, on behalf of P. Silveirinha, demands judgment against the Defendant, R & P Fishing Corp., for loss of support and loss of nurture and guidance in an amount to be determined by a jury together with interest and costs.

**COUNT X**  
**GENERAL MARITIME LAW - UNSEAWORTHINESS**  
**Claim of P. Silveirinha for Loss of Support and Loss of Nurture and Guidance**

64. The Plaintiff, Maria Mesquita, reiterates the allegations set forth in paragraphs 1 through 20 above.

65. P. Silveirinha was the granddaughter of Antonio S. Mesquita from whom she received support, nurture and guidance.

66. The death of Antonio S. Mesquita, was not caused by any fault on his part but was caused by the unseaworthiness of the F/V COSTA & CORVO.

67. As a result of the death of Antonio S. Mesquita, P. Silveirinha has lost support, nurture and guidance of Antonio S. Mesquita, and has sustained other pecuniary loss as will be shown at trial.

68. This cause of action is brought pursuant to the General Maritime Law for Unseaworthiness.

WHEREFORE, the Plaintiff, Maria Mesquita, on behalf of P. Silveirinha, demands judgment against the Defendant, R & P Fishing Corp., for loss of support and loss of nurture and guidance in an amount to be determined by a jury together with interest and costs.

**THE CLAIMANT DEMANDS A TRIAL BY JURY ON ALL ISSUES RAISED IN THIS COMPLAINT**

**Respectfully submitted  
by the CLAIMANT, MARIA  
MESQUITA, PERSONAL  
REPRESENTATIVES OF THE ESTATE  
OF ANTONIO S. MEQUITA**

/s/ Carolyn M. Latti  
Carolyn M. Latti  
BBO #567394  
David F. Anderson  
BBO #567994  
LATTI & ANDERSON LLP  
30-31 Union Wharf  
Boston, MA 02109  
(617) 523-1000

DATED: August 19, 2009

**CERTIFICATE OF SERVICE**

I hereby certify that on August 19, 2009, I electronically filed Claim of Maria Mesquita, Personal Representative of the Estate of Antonio S. Mesquita, with the Clerk of the Court using CM/ECF system which will send notification of such filing(s) to the following:

Joseph Regan, Esquire  
Regan & Kiely LLP  
88 Black Falcon Avenue, Suite 330  
Boston, MA 02210

Respectfully submitted for the  
the Plaintiff,

/s/Carolyn M. Latti  
Carolyn M. Latti